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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/462,929 06/07/00 OLD

L L0461/7078

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HM22/1003

EXAMINER

SISSON, B

ART UNIT

PAPER NUMBER

1655

10

DATE MAILED:

10/03/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/462,929

Applicant(s)

OLD ET AL.

Examiner

Bradley L Sisson

Art Unit

1655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1, 2, 5, 18, 22, 31, 40, 42, 44, 49, 58, 67, 71, 73-77, 79, 82, 83, 85, 90, 93, 99, 102, 105, 108, 112 and 116 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

U.S. Patent and Trademark Office  
PTO-326 (Rev. 04-01)

**Office Action Summary**

Part of Paper No. 10

Continuation of Disposition of Claims: Claims pending in the application are 1,2,5,18,22,31,40,42,44,49,58,67,71,73-77,79,82,83,85,90,93,99,102,105,108,112 and 116.

***Location of Application***

1. The location of the subject application has changed. The subject application is now located in Group 1650, Art Unit 1655, and has been assigned to Primary Examiner Bradley L. Sisson.

***Election/Restrictions***

2. Restriction is required under 35 U.S.C. 121 and 372.
3. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.
4. In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1 and 2, drawn to a nucleic acid-based method of diagnosing a disorder; and claim 5, drawn to a method for determining regression, progression or onset of a condition.

Group II, claim(s) 18, 22, 49 and 58, drawn to a pharmaceutical polypeptide composition. Note that claims 18 and 22 are considered to be generic and election of this group will result in said claims being examined to the extent that they read on polypeptide pharmaceutical compositions

Group III, claim(s) 18, 22 and 44, drawn to a nucleic acid pharmaceutical composition. Note that claims 18 and 22 are considered to be generic and election of this group will result in said claims being examined to the extent that they read on nucleic acids pharmaceutical compositions.

Group IV, claim(s) 31, 40, and 42, drawn to an antibody composition; and claim 46, drawn to an antibody.

Group V, claim(s) 67, drawn to nucleic acids.

Group VI, claim(s) 71 and 73, drawn to expression vectors; and claims 74-75, drawn to host cells.

Group VII, claim(s) 76, 77, 79, and 82, drawn to polypeptides; and claim 112, drawn to a composition of same.

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Group VIII, claim(s) 85, 102 and 108, drawn to a method of treating a subject via active immunological means. Note that claims 102 and 108 are considered to be generic and election of this group will result in said claims being examined to the extent that they read on an active immuno-based method of treatment of claim 85.

Group IX, claim(s) 90, 93, 102 105, and 108, drawn to a nucleic acid-based method of treating a subject. Note that claims 102 and 108 are considered to be generic and election of this group will result in said claims being examined to the extent that they read a nucleic acid-based method of treating a subject.

Group X, claim(s) 99, drawn to a method for treating or diagnosing or monitoring a subject via administration of an antibody.

5. The inventions listed as Groups I-X do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The groups are drawn, in part, to different methods that use different reagents (recombinant proteins, nucleic acids or antibodies) and as such lack a common special technical feature. Also, the inventions of Groups II-VII are all drawn to different compounds or compositions and as such do not share a special technical feature.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley L Sisson whose telephone number is (703) 308-3978.

The examiner can normally be reached on 6:30 a.m. to 5 p.m., Monday through Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones can be reached on (703) 308-1152. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3592 for regular communications and (703) 308-0294 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.



Bradley L Sisson  
Primary Examiner  
Art Unit 1655

bls  
October 1, 2001